

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LISA DOLAN COYLE  
3120 Maureen Drive  
Philadelphia, PA 19154

Plaintiff

V.

AMERCO t/a REPUBLIC WESTERN  
INSURANCE COMPANY  
1 Ivybrook Boulevard, Suite 160  
Ivyland, PA 18974  
and  
JAMES WALLETE

## Defendants

CIVIL ACTION

NO: 02-CV-3619

## DEFENDANTS' PRETRIAL MEMORANDUM

In accordance with this Court's pretrial scheduling order and Local Rule 16.1 (c), defendant hereby presents their pretrial memorandum in this matter.

## 1. Nature of Action

Plaintiff, Lisa Coyle (“plaintiff”), alleges that she experienced gender discrimination while employed as a litigation manager at defendant, Republic Western Insurance Company’s (“Republic Western”) Ivyland, Pennsylvania office. Plaintiff alleges that the discrimination was committed by defendant, James Wallete (“Mr. Wallete”), the claims manager of the Ivyland office and plaintiff’s supervisor, from a period of January 3, 2000 until August 28, 2000. On or about June 6, 2002, plaintiff filed the within complaint against Republic Western and Mr. Wallete with counts based upon Title VII of the Civil Rights Act of 1964, the Pennsylvania Human Relations Act (PHRA), retaliation, aiding and abetting in violation of the PHRA,

intentional infliction of emotional distress and defamation (dismissed by summary judgment).

Plaintiff's gender discrimination is based upon theories of hostile work environment and disparate treatment. Plaintiff seeks both compensatory and punitive damages.

Defendants contend, among other things, that: 1) plaintiff's hostile work environment claim is without merit because even if plaintiff's allegations are true, they do not constitute a hostile, intimidating or offensive work environment; 2) plaintiff fails to make out a *prima facie* case of disparate treatment because she cannot demonstrate that male employees were treated more favorably; 3) plaintiff fails to provide sufficient evidence to support a "discriminatory retaliation claim" under Title VII against Republic Western; 4) plaintiff cannot present sufficient evidence that defendants aided and abetted; and 5) plaintiff cannot present sufficient evidence that defendants intentionally caused plaintiff to suffer an infliction of emotional distress.

## **2. Brief statement of the Facts**

Plaintiff began her career with Republic Western as the litigation manager of the Ivyland office on May 18, 1998. Plaintiff was the first person to hold the position of litigation manager at the Ivyland office. The position required oversight of U-Haul litigation within 13 states, supervising litigation representatives and operating the office along with the claims manager. Plaintiff was responsible for direct supervision of approximately four to five litigation representatives in her unit which required face-to-face daily contact to ensure that the litigation representatives were doing their job.

Plaintiff alleges that her problems did not arise with Mr. Wallete until she returned from a Family and Medical Leave Act (FMLA) leave on January 3, 2000. Prior to that time, plaintiff admitted that she had no problems with Mr. Wallete. After returning from her FMLA leave,

plaintiff contends she was subjected to verbal and written communications which constituted gender discrimination. Plaintiff alleges that the aforementioned activities caused her depression-related physical and mental illness which have prevented her from working after August 28, 2000 until today.

Plaintiff never contacted Republic Western's human resources department concerning the alleged discriminatory activity. Republic Western never demoted plaintiff nor was her salary ever reduced. A few months after plaintiff left her job with Republic Western, the company discovered through a comprehensive audit that the Ivyland office an approximately \$10 million shortfall in reserves in the litigation unit in which plaintiff was the manager.

Since her departure from Republic Western on August 28, 2000, plaintiff has sought and received workers' compensation benefits as well as disability benefits provided through her employment with Republic Western and she has applied for Social Security Administration Disability Benefits.

### **3. Witnesses**

James Wallete, 12 Cochita Trail, Browns Mills, NJ 08015 - liability

Ray Sillari, c/o of Republic Western, 2721 North Central Avenue, Phoenix, AZ 85004 -  
liability

John Aye, c/o of Republic Western, 2721 North Central Avenue, Phoenix, AZ 85004- liability

Michael W. Hickson, c/o of Republic Western, 2721 North Central Avenue, Phoenix, AZ  
85004 - liability

Deborah L. Tooker, c/o of Republic Western, 2721 North Central Avenue, Phoenix, AZ  
85004 - liability

Thom Matush, c/o of Republic Western, 2721 North Central Avenue, Phoenix, AZ 85004 -  
liability

Timothy J. Michals, M.D., 125 South 9th Street, Philadelphia, PA - damages expert

Gladys S. Fenichel, M.D., 210 Kent Road, Ardmore, PA 19003 - damages expert

Harry A. Doyle, M.D., 230 S. 22<sup>nd</sup> St., Phila., PA 19103 - damages expert

Belinda Weedon-Hall, c/o Republic Western, PO Box 2789, Warminster, PA 18974 - liability

Michael DiBenedetto, c/o Republic Western, PO Box 2789, Warminster, PA 18974 - liability

Michael Linn, c/o Republic Western, PO Box 2789, Warminster, PA 18974 - liability

Maria Limberakis, D.O. - d9551 Bustleton Ave., Phila., PA 19115 - damages

Roslyn Wolberg, Psy.D. - damages

Custodian of Records of Liberty Mutual Insurance Worker's Compensation file: WC:390-  
86657 - damages and liability

Custodian of Records of Oxford Life Insurance Disability Income file - damages and liability

Custodian of Records for Lewis J. Kaplan, M.D.

Custodial of Records for Philmont Guidance Center

Custodian of Records for Maria Limberakis, D.O.

Custodian of Records for Jeffrey Blumenthal, M.D.

Custodian of Records for Fairless Hills Psychological Associates

Custodian of Records for Hahnemann Hospital

Custodian of Records for CVS #2299

Custodian of Records for CVS #2131

Custodial of Records for Walgreens, 2435 Street Road, Bensalem, PA 19020

All witnesses listed by plaintiff on their Pretrial Memorandum

Defendant reserves the right to supplement this list as necessary for rebuttal purposes

**4. Exhibits**

- A. Defendant's Answer to Plaintiff's Complaint
- B. Plaintiff's Complaint
- C. Deposition of Lisa Coyle, as needed
- D. Deposition of James Wallete, as needed
- E. Reports of Timothy J. Michals, M.D.
- F. Report of Gladys S. Fenichel, M.D.
- G. Report of Harry A. Doyle, M.D.
- H. Documents regarding plaintiff's maternity leave
- I. U-Haul company policy prohibiting sexual harassment
- J. U-Haul company policy re: Equal Employment Opportunity
- K. Family/Medical Leave Act (FMLA) letters to plaintiff (08/27/99 and 08/29/99)
- L. Employee Relations' investigation of plaintiff's allegations (June 15, 2001)
- M. Pennsylvania Human Relations Commission file
- N. Audit of Pennsylvania FCO (05/08/00-05/12/00) - summary report
- O. Pennsylvania FCO project status report (10/16/00)
- P. E-mails and one memo
- C 6/5/98 email to Wallete from Howard re: Coyle new employee packet

- C 10/2/98 email to Wallete from Coyle re: litigation goals
- C 12/3/98 email to Coyle from Davila re: organization
- C 2/17/99 memo to Wallete from Coyle re: proposed plan of action for my leave of absence
- C 2/25/99 email to Coyle from Wallete re: possible default situation on file 02321432
- C no date email to Coyle from Wallete re: Howard Josephson
- C 2/26/99 email to staff from Coyle re: absence
- C 5/12/99 email to Aye, Sillari, Wallete from Coyle re: Kohler matter, file 02079330
- C 5/24/99 email to Coyle and Wallete from Schmitz re: Rhonda Morris v. U-Haul, file 02289842
- C 5/29/99 email to Coyle, Wallete, Freberg, Sillari from Aye re: Rhonda Morris v. U-Haul
- C 6/8/99 email to Aye from Coyle re: Anthony Criscuolo v. RWIC file 02322402
- C 6/29/99 email to Sillari from Wallete re: Coyle pregnancy
- C 7/16/99 email to Wallete from Aye re: Pizzi, Anzalone file 02010762
- C 7/21/99 email to Wallete from Sillari re: trial report 7/21/99 file 02334386
- C 8/3/99 email to Coyle and Wallete from Aye re: trial 8/26/99 Torres v. U-Haul
- C 8/16/99 email to Wallete from Coyle re: Coyle doctors' appointment for 8/17/99
- C 8/18/99 email to Wallete from Sillari re: Coyle's last day of work before leave
- C 8/25/99 email to Field Office Managers from Sillari re: large loss committee ccc - reserving older files

- C 8/26/99 email to everyone from Wallete re: large loss ccc committee - reserving older files
- C 1/27/00 email to Wallete from Sillari re: suit report
- C 2/23/00 email to Wallete from Coyle re: off site management team meeting 2/22/00
- C 2/24/00 email to Coyle from Wallete re: time out of office (2 copies)
- C 3/8/00 email to Wallete from Coyle re: coaching session clarification
- C 3/27/00 email to PA staff from Aye re: trial report - Thompson v. U-Haul file 02311017
- C 4/4/00 email to Aye and PA staff from Coyle re: trial report - Thompson v. U-Haul
- C 5/23/00 email to Wallete from Coyle re: proposal for flextime - temporary basis
- C 5/24/00 email to Wallete from Coyle re: my performance review anniversary 5/18/00
- C 5/25/00 email to Coyle from Sillari re: proposal for flextime - temporary basis
- C 5/26/00 email to Coyle from Wallete re: EDP and decision
- C 5/30/00 email to Wallete from Sillari re: merit increases
- C 5/30/00 email to Coyle from Wallete re: EDP and decision
- C 5/31/00 email to Wallete from Coyle re: EDP and decision
- C 6/27/00 email to Wallete from Coyle re: vacation
- C 7/24/00 email to Coyle from Wallete re: older files file 02090766
- C 7/27/00 email to Coyle from MacNeil re: law firm of Malapero & Prisco
- C 8/11/00 email to Wallete from Coyle re: vacation
- C 8/11/00 email to Coyle from Wallete re: reserve review
- C 8/11/00 email to Coyle from Wallete re: the Dail New - BI

- C 8/11/00 email to Wallete from Coyle re: reserve review
- C 8/15/00 email to Wallete from Sillari re: Lisa file 02082201
- C 8/18/00 email to Sillari from Wallete re: Coyle action plan
- C 8/21/00 email to Wallete from Coyle re: required daily progress report - reserve review project
- C 8/22/00 email to Coyle and Wallete from Aye re: AS400 diary
- C 8/24/00 email to Hickson from Coyle re: reserve change request
- C 8/25/00 email to DL PA from Wallete re: congratulations
- C 8/28/00 email to Hickson from Coyle re: reserve change request
- O. Memos
  - C 5/25/00 memo to Wallete from Coyle re: increase in reserve project for Ron Gray - due Friday, 5/26/00
  - C 12/29/98 memo to Wallete from Coyle re: December file reviews
  - C 12/23/98 memo "BAD, MLL, SXS, ADL from Coyle re: litigation unit meeting
  - C 9/21/98 memo to Coyle from Wallete re: denials of liability or coverage
  - C 8/6/98 memo to Patrick Maxwell from Coyle re: settlement authority
  - C 8/5/98 memo to Coyle from Wallete re: settlement authority
  - C 5/7/99 memo to Ron Gray from Hickson re: PAFCO Field Audit Review
- P. Disability claim documents
- Q. Workers compensation documents
- R. Documentation of plaintiff's personal/sick days
- S. Republic Western Insurance Company policy forms executed by plaintiff



- T. Documents re: plaintiff's training/workshops
- U. Republic Western Insurance Company Claims Procedure Manual
- V. Republic Western Insurance Company - Pennsylvania Regional Office - Organization Chart
- W. U-Haul Human Resources records re: plaintiff, post-departure
- X. Audit reports of Republic Western Insurance Company 1/25/99-1/29/99 with responses
- Y. Employee Development Plans re: plaintiff
- Z. Release of All Claims and Confidentiality Agreement between Republic Western Insurance Company and James Wallete dated 1/19/01
- AA. Audit report of Republic Western Insurance Company's Ivyland, PA office dated 9/26/01 and 11/19/01
- BB. U-Haul Welcome Abroad pamphlet
- CC. Republic Western Insurance Company personnel file for plaintiff
- DD. Republic Western Insurance Company personnel file for James Wallete
- EE. Republic Claims Service Position Description: Claims Supervisor
- FF. Republic Claims Service Position Description: Claims Examiner
- GG. Republic Claims Service Position Description: Claims Adjuster
- HH. Republic Claims Service Position Description: Litigation Claims Representative
- II. Republic Claims Service Position Description: Litigation Manager
- JJ. Performance Appraisal and Review: Charles Beddis (8/25/98)
- KK. Performance Appraisal and Review: Terry Newman (8/25/98)
- LL. 9/9/00 letter to Tooker from Coyle re: unlawful discrimination based on sex by Wallete

MM. Employee Development Program re: Coyle (5/12/99)

NN. Employee Development Program re: Coyle (6/12/00)

OO. Employee Development Program re: Coyle (not administered)

PP. PAFCO Project, Status Report (11/1/00)

QQ. Plaintiff's Liberty Mutual Insurance Worker's Compensation file: WC:390-86657

RR. Plaintiff's Oxford Life Insurance Disability Income file

SS. Plaintiff's medical records from Lewis J. Kaplan, M.D.

TT. Plaintiff's medical records from Philmont Guidance Center

UU. Plaintiff's medical records from Maria Limberakis, D.O.

VV. Plaintiff's medical records from Jeffrey Blumenthal, M.D.

WW. Plaintiff's medical records from Fairless Hills Psychological Associates

XX. Plaintiff's medical records from Hahnemann Hospital

YY. Plaintiff's prescription records from CVS #2299

ZZ. Plaintiff's prescription records from CVS #2131

AAA. Plaintiff prescription records from Walgreens , 2435 Street Road, Bensalem, PA 19020

BBB. Plaintiff's employment search records produced in discovery

CCC. Plaintiff's tax returns

DDD. Documents re: reserve issues and summary sheets (RW526-1105)

EEE. All documents produced by defendants in discovery and bate-stamped for identification

FFF. Plaintiff's answers to interrogatories along with attachments

GGG. Plaintiff's response to requests for production along with attachments

HHH. All documents and records received pursuant to subpoena in this action

All exhibits listed by the plaintiff

Defendants reserve the right to supplement this list as necessary for rebuttal purposes

**5. Days of Trial**

Defendants estimate that trial will last approximately 5 to 7 days.

**6. Legal Issues**

With respect to legal issues, defendants direct the Court to the parties briefs filed in support of and opposition to summary judgment motions and the following motions in limine filed on behalf of defendants:

- # Motion in Limine to Collaterally Estop Plaintiff from Arguing Disability Beyond April 2, 2001 and Precluding Plaintiff from Seeking to Collaterally Estop Defendants from Arguing Against Gender Discrimination and Causation;
- # Motion in Limine to Deduct All Workers' Compensation Indemnity Payments and Disability Payments from Any Back and Front Pay Awards;
- # Motion in Limine to Preclude Evidence Regarding Alleged Incidents of Racial Discrimination in the above matter,
- # Motion in Limine to Bifurcate Compensatory and Punitive Damages; and
- # Motion in Limine to Preclude Unsworn Declarations.

**Respectfully Submitted,**

**WHITE AND WILLIAMS LLP**

By: \_\_\_\_\_  
Robert G. Devine, Esquire  
Michael W. Horner, Esquire  
1800 One Liberty Place  
Philadelphia, PA 19103  
Attorneys for Defendants,  
Republic Western Insurance  
Company and James Wallete

Date:

**CERTIFICATE OF SERVICE**

I, Michael W. Horner, hereby certify that I served on the date set forth below a copy of  
the foregoing Defendants' Pretrial Memorandum by \_\_\_\_\_, to the following

Linda P. Falcao, Esquire  
238 Harrogate Road  
Wynnewood, PA 19096

**WHITE AND WILLIAMS LLP**

By \_\_\_\_\_  
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